

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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A.V.E.L.A., INC.,

Plaintiff,

v.

THE ESTATE OF MARILYN MONROE, LLC, *et al.*,

Defendants.
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THE ESTATE OF MARILYN MONROE, LLC,

Counterclaimant,

v.

A.V.E.L.A., INC.,

Counter-Defendant,

LEO VALENCIA, IPL, INC.,
X ONE X MOVIE ARCHIVES INC.,
V. INTERNATIONAL FINE ARTS PUBLISHING,
INC.,

Third-Party Defendants.
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X ONE X MOVIE ARCHIVES INC.,
V. INTERNATIONAL FINE ARTS PUBLISHING,
INC.,

Counterclaimants,

v.

THE ESTATE OF MARILYN MONROE, LLC,
AUTHENTIC BRANDS GROUP, LLC, JAMES
SALTER.

Counter-Defendants.
-----X

12 Civ. 4828 (KPF)

ORDER

KATHERINE POLK FAILLA, District Judge:

On October 16, 2019, the Court held a telephone conference regarding the trial schedule in this matter. (Minute Entry of 10/16/19). Following that conference, the Court adjourned the trial, previously scheduled for November 2019, to January 13, 2020, and scheduled a follow-up telephone conference for November 19, 2019, to ensure that counsel for all parties would be able to proceed to trial on the scheduled date. (Dkt. #451).

Following the adjournment of the trial date, Mr. Harley moved to withdraw as counsel for the A.V.E.L.A., Inc., Leo Valencia, IPL, Inc., and X One X Movie Archives Inc. (collectively the “AVELA Parties”). (Dkt. #452). On October 23, 2019, the Court granted Mr. Harley’s motion to a certain extent. (Dkt. #455). The Court ordered that on or before the November 19, 2019 telephone conference, the AVELA Parties will have either: (i) worked out a payment plan with Mr. Harley, in which case the Court would deny as moot Mr. Harley’s motion to withdraw; or (ii) found new counsel and had such counsel enter a notice of appearance on the record. (*Id.*). The Court cautioned the AVELA Parties that any new counsel would be required to represent, at the November 19, 2019 telephone conference, that such counsel would be prepared to go to trial on January 13, 2020. (*Id.*). The Court also explained that if Mr. Harley withdrew and the AVELA Parties had not retained new counsel by November 19, 2019, the Court would not move the trial for this reason and, therefore, Leo Valencia would proceed to trial *pro se*, and the Court would enter

default judgments as to the corporate entities that comprise the AVELA Parties.
(*Id.*).

Yesterday, the Court received an in-camera submission from Mr. Goodheart, counsel for V. International Fine Arts Publishing, Inc. Based on the submission, the Court has decided to relieve Mr. Goodheart as counsel in this case.

Accordingly, it is hereby ORDERED that:

- The trial scheduled to commence on January 13, 2020, is hereby ADJOURNED.
- Mr. Goodheart is relieved as counsel in this case.
- V. International Fine Arts Publishing, Inc. shall obtain new counsel who must file a notice of appearance on the record by **December 31, 2019**. Any new counsel must be prepared to go to trial on whatever date the Court selects.
- The telephone conference previously scheduled for November 19, 2019, is hereby ADJOURNED.
- Mr. Harley must still report to the Court, in writing, by November 19, 2019, as to whether he has worked out a payment plan with the AVELA Parties or whether he still seeks to withdraw. If the AVELA Parties and Mr. Harley have not worked out a payment plan by November 19, 2019, then AVELA must have new counsel file a notice of appearance by that date. Such new counsel must be prepared to go to trial on whatever new date the Court selects.
- The Parties shall each individually report to the Court with which of the following dates they would prefer to commence the trial in this matter:
 - Monday, April 6, 2020;
 - Monday, April 13, 2020;
 - Any date in May (although the Court would be double booking this trial with another civil trial scheduled to continue throughout May); or
 - Monday, June 1, 2020.

The Clerk of Court is directed to terminate Mr. Goodheart as counsel for V. International Fine Arts Publishing, Inc. in this case. The Court expects that Mr. Goodheart will transmit this Order to his client, and will take such steps as are necessary to effectuate a smooth transition of the case file.

SO ORDERED.

Dated: November 14, 2019
New York, New York

A handwritten signature in blue ink, reading "Katherine Polk Failla".

KATHERINE POLK FAILLA
United States District Judge